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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,061	01/10/2000	ART MALIN	769-197CIP-D	3852

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02/05/2002

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EXAMINER

GARBE, STEPHEN P

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 02/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/480,061

Applicant(s)

MCMAHON ET AL.

Examiner

Stephen Garbe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

1. The drawing correction submitted on January 23, 2002, is approved.
2. Claim 14 is objected to as having a double inclusion. In particular, note lines 8 and 9 which begin with "said female" and end with "a male web integral therewith." It appears that these two lines should be deleted because lines 10 and 11 include the same limitation except that lines 10 and 11 recite "female web integral therewith" rather than "male web integral therewith."
3. Upon reconsideration, the non-enablement rejection set forth in section 5 of the Office Action mailed October 15, 2001, is hereby withdrawn.
4. Claims 14 and 16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no original disclosure of the narrow web sealed to a package wall only at a second seal area and wherein the second seal area is spaced apart from the first seal area, as set forth in the last paragraph of claim 14. This is a new matter rejection.
5. Applicant's arguments filed with the reply have been fully considered but they are not persuasive. Applicant's only argument with respect to the above rejection is that "heat seal materials 30 provides such a disclosure." This is believed to be incorrect. With reference to Figure 1, the last paragraph of claim 14 requires the "other interlocking profile" (element 19) to be sealed to the package wall only at a second seal area that is spaced from the first seal area along the width of the zipper strip. The "width" is the vertical dimension as viewed in Figure 1, and the first seal area is

somewhere on web 20. The reason that the above argument is not persuasive is that heat seal materials 30 are not spaced apart from each other along the width of the zipper strips. They are clearly overlapping.

Furthermore, the written description does not support the limitation requiring the spaced seal areas. Note page 7, lines 2-12, which state that the zipper strip 10 (which includes both male and female members) is initially sealed to the packaging material at 24 and 26. Page 7 further states that heat seal materials 30 are applied to the outside of both webs to facilitate their heat sealing to the container sheet material. The materials 30 on the two webs overlap along the width of the zipper strip. Page 7 further states that, later, when the sheet material is folded over to form a tube, it is sealed to the outsides of both webs 20 and 22.

Thus, the written description states that the packaging material is initially sealed to web 20 at 24 and 26 and later to the outsides of both webs 20 and 22 which have heat seal material 30 applied thereto. The strong implication is that the packaging material is sealed to the webs at least along the entire area covered by heat seal material 30, thereby providing seal areas that overlap. In any event, there is nothing in the original disclosure to indicate that the inventors contemplated the claimed spaced-apart seal areas.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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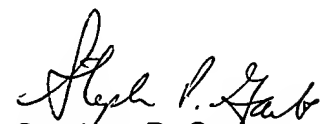
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this application or proceeding should be directed to Stephen Garbe who can be reached at 703-308-1207. The examiner can normally be reached Monday-Thursday between the hours of 7:15 and 4:45 and alternate Fridays between the hours of 7:15 and 3:45.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on 703-308-2572.

9. The fax phone numbers for Technology Center 3700 are 703-872-9302 for papers filed in response to a non-final Office Action and 703-872-9303 for papers filed in response to a Final Office Action.

10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-1148.


Stephen P. Garbe
Primary Examiner
Group 3720